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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,357	09/25/2001	Wolfgang Coronel	YKK 3018	5877

30868 7590 06/17/2003

KRAMER + ASSOCIATES, P.C.
CRYSTAL PLAZA ONE
2001 JEFFERSON DAVIS HWY. SUITE 1101
ARLINGTON, VA 22202

EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/17/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/961,357

Applicant(s)

CORONEL ET AL.

Examiner

Jenna-Leigh Befumo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 16-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1 - 15, drawn to a surface fastener, classified in class 428, subclass 85.
 - II. Claims 16 - 24, drawn to a method of making a surface fastener, classified in class 156, subclass 349.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made with a substrate made from a fabric or paper layer and not formed by extrusion as recited in Group II.
 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
 4. During a telephone conversation with Terry W. Kramer on April 1, 2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1 - 15.
- Affirmation of this election must be made by applicant in replying to this Office action. Claims 16 - 24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1 – 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. The phrase “having a plurality of filaments wound around a core thread such that the winding of each filament wound around the core thread has a length greater than that of the outer periphery of the core thread” in claim 1 is indefinite. It is unclear what two things are being compared. Does the phrase “the winding of the filament around the core” refer to the length of the wrapped yarn? And, how is the length of the “outer periphery of the core thread” calculated? Is it just the length of the core thread? Or, is it based on the surface area of the periphery of the thread? For purposes of examination, this phrased is interpreted as requiring the wrap yarn to have a greater length than the core yarn. Claims 2 – 15 are rejected due to their dependency on claim 1.

9. Claim 1 recites the limitation "the winding" in lines 4 - 5. There is insufficient antecedent basis for this limitation in the claim.

10. The phrase "bonded with top faces of the elevated portions" in claim 9 is indefinite. It is unclear what qualifies as the "top faces" of the elevated portions. Is the Applicant referring to the peaks of the elevated portions? Claims 10 – 15 are rejected due to their dependency on claim 9.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 7, 8, 9, 14, and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpatrick (5,447,590) in view of Shepard et al. (WO 00/73063).

Gilpatrick discloses a looped pile fabric which is used as female fabric in a hook and loop fastener (column 1, lines 10 – 15). The loop pile fabric is inexpensive to produce (column 1, lines 16 – 17). The loop pile fabric comprising a paper substrate having a coating of adhesive thereon in which a plurality of substantially parallel yarns are imbedded (column 1, lines 37 – 40). The yarns consist of a core yarn and an effect yarn which provides the loops (column 1, lines 42 – 43). The effect yarn is supplied to the yarn at a rate substantially greater than the core yarn to produce the composite yarn (column 1, lines 45 – 49). Therefore, the effect yarn would be greater in length than the core yarn. While Gilpatrick teaches an inexpensive loop fabric which can be used in a hook and loop fastener, Gilpatrick fails to teach using the loop fabric with a backing layer having raised portions.

Shepard et al. is drawn to a loop fabric used in a hook and loop fastener. Shepard et al. teach that a loop fastener can be applied directly to the raised region of a corrugated sheet, or raised portions, as shown in Figure 2A. The boards are used in display systems to which removable signs are attached (page 10). Thus, it would have been obvious to one of ordinary skill in the art to use a corrugated board as the backing material, as taught by Shepard et al., for the loop fastener taught by Gilpatrick to create an inexpensive, lightweight board to which signs can be removably attached. Thus, claims 1 and 9 are rejected. Further, the corrugated board has an additional paper layer on the opposite side from the loop substrate adhered to the corrugated core. Therefore, claims 7, 8 14, and 15 are rejected.

13. Claims 1, 5, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpatrick in view of Shepard et al. (6,342,285).

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpatrick in view of Shepard et al. (WO 00/73063) as applied to claim 9 above, and further in view of Shepard et al. '285.

The features of Gilpatrick and Shepard et al. (WO 00/73063) have been set forth above. Gilpatrick fails to teach what backing layers the loop fabric can be used with. Shepard et al. '285 is drawn to an inexpensive loop fabric for use in a hook and loop fastener. Shepard et al. '285 discloses that the loop fabric can be laminated to various products including the outer shell of a diaper (column 10, lines 58 – 59), a carrier film (column 11, line 1), a surgical gown (column 11, lines 8 – 10), a box (column 11, lines 31 – 32), fiber material (column 11, lines 59 – 63), and a foam layer (column 12, lines 11 – 12). Thus, the loop material is bonded to fabric layers, cardboard or paper layers, foams layers, and film layers. Further, Shepard et al. '285 teaches that

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there are many different backing materials that can be included on the back side of the loop product (column 1,, lines 41 – 43). Therefore, it would have been obvious to one of ordinary skill in the art to apply various backing layers including textile materials and paper products, as taught by Shepard et al. '285 to the loop substrate taught by Gilpatrick, since the loop fabric is inexpensive and thus, the final products would be less expensive. Also, this would increase the various end products which can be created with the loop fabric. Therefore, 1, 5, 6, 8, 12 and 13 are rejected.

14. Claims 1, 2, 3, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpatrick in view of Martin et al. (6,045,887).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpatrick in view of Shepard et al. (WO 00/73063) as applied to claim 9 above, and further in view of Martin et al. (6,045,887).

The features of Gilpatrick and Shepard et al. (WO 00/73063) have been set forth above. Gilpatrick fails to teach using the loop product with an abrasive material. Martin et al. is drawn to abrasive sheets having a loop pile fabric layer. Martin et al. teaches using an outer layer of comprising a loop fastener with abrasive sheets is a preferred method of attaching sand paper to a sanding machine (column 2, lines 20 – 25). The sand paper comprises a layer of abrasive mixed with resin, a support medium and the loop fastener (column 3, lines 15 – 20). Therefore, it would have been obvious to one of ordinary skill in the art to use the sand paper taught by Martin et al. as the backing material for the loop fabric taught by Gilpatrick to create an inexpensive piece of sand paper which can be easily attached to a sand machine, as well as

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expand the various end products which can be made with the loop fastener. Thus, claims 1, 2, 3, 7, and 10 are rejected.

15. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpatrick in view of Kennedy et al. (5,260,015).

The features of Gilpatrick have been set forth above. Gilpatrick fails to teach using the loop product with a hook fastener on the opposite side of the carrier material. Kennedy et al. is drawn to a hook and loop fastener. Kennedy et al. teaches a hook and loop fastener having the hook fastener on one side of a carrier material and a loop fastener on the opposite side, which is known as a back fastener (column 2, lines 53 - 59). Kennedy et al. teaches that this structure finds multiple uses in strapping operations such as wire ties, plant ties, and fastener straps for holding splints. Thus, it would have been obvious to one of ordinary skill in the art to produce a back fastener taught by Kennedy et al. with the loop material taught by Gilpatrick to create an inexpensive back fastener which can be used in various strapping operations. Thus, claims 1 and 4 are rejected.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jackson (US 5,830,298) is also drawn to loop fasteners having a core and effect yarn as taught by Gilpatrick.

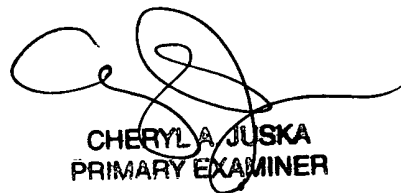
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (703) 605-1170. The examiner can normally be reached on Monday - Friday (9:00 - 5:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Jenna-Leigh Befumo
June 2, 2003



CHERYL A. JUSKA
PRIMARY EXAMINER